

K.S.A. 1999 Supp. 44-551 limits the rights of a party to appeal from a preliminary hearing order to situations where it is alleged that the administrative law judge exceeded

his or her jurisdiction in granting or denying the relief requested. Under K.S.A. 1999 Supp. 44-534a, the following issues are considered jurisdictional and subject to review by the Appeals Board "whether the employee suffered an accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given or claim timely made, or whether certain defenses apply."

The issues raised by respondent are not issues over which the Appeals Board takes jurisdiction from a preliminary hearing appeal. The administrative law judge is empowered under K.S.A. 1999 Supp. 44-534a to decide issues dealing with medical treatment and temporary total disability compensation.

Respondent's objection regarding the failure of claimant to attach copies of medical records to the application for hearing was not raised to the Administrative Law Judge at the time of preliminary hearing. K.S.A. 44-555c(a) allows review by the Board upon questions of law and fact as presented to the administrative law judge. The issue dealing with claimant's failure to attach the medical records to claimant's application for hearing was not discussed at the time of preliminary hearing. Additionally, the medical records, which initially were marked as Claimant's Exhibit 1, were admitted into evidence without objection, marked as Respondent's Exhibit A.

For the above reasons, the Appeals Board finds that the appeal of respondent in this matter is not one over which the Appeals Board will take jurisdiction from a preliminary hearing, and the respondent's appeal should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Steven J. Howard dated July 5, 2000, remains in full force and effect, and the appeal of the respondent in the above matter should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 2000.

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BOARD MEMBER

c: William L. Phalen, Pittsburg, KS  
Troy A. Unruh, Pittsburg, KS  
Steven J. Howard, Administrative Law Judge  
Philip S. Harness, Director